

REMARKS

In the Office Action under reply, claims 1-99 were examined and subject to requirements for restriction and election of species as detailed below.

Restriction requirement:

The Office requires an election of one claim group. As set forth in the Office Action, the groups are:

- (I) claims 1-75 and 95, drawn to a composition of matter;
- (II) claims 76-80, 97 and 98 (mistakenly indicated as "76-80 and 97-97" in the Office Action), drawn to a method for effecting sustained release of an agent in the mouth;
- (III) claims 81-88, drawn to a method for treating the common cold;
- (IV) claims 89-93, drawn to a method for facilitating weight loss;
- (V) claim 94, drawn to a method for assisting an individual in quitting smoking; and
- (VI) claim 99, drawn to a taste-masked admixture for administration of a beneficial agent in the mouth.

In response, applicants elect Group I, claims 1-75 and 95, with traverse only to the extent that (1) claim 96, dependent on claim 95 and not mentioned in the Office Action, be included in Group (I); and (2) the Examiner consider combining claim 99, a formulation claim, with the Group (I) claims, since the subject matter is so closely related and substantially the same search would apply. In addition, applicants wish to confirm that upon allowance of a product claim, withdrawn process claims that depend from or otherwise require the elements of that claim will be rejoined and examined.

Requirement for election of species:

The Examiner has also required the election of a single species encompassed by the claimed composition, with respect to a specific flavoring agent, hydrophilic polymer, sweetener, dosage form, beneficial agent, additive, and biocompatible polymer.

- a) the flavoring agent is peppermint oil;
- b) the hydrophilic polymer is ethylcellulose;
- c) the sweetener is sucralose;
- d) the dosage form is a lozenge;

- e) there is no beneficial agent;
- f) the additive is a binder, which is composed of a combination of gum arabic and stearic acid; and
- g) other than the hydrophilic polymer, there is no added biocompatible polymer.


The election of species is made without traverse.

Of the elected group, the claims that read on the elected species are as follows: 1-13, 23-26, 28-30, 46-48, 55-57, 73, and 74. Of the withdrawn group, the claims that read on the elected species are 76 and 77. Note that applicants have amended claims 47 and 73 to include "binders" in the list of additives; support for the amendment may be found on paragraph [0068] of the published patent application. Claims 74, 81, 89, 95, and 97 have also been amended to recite that the hydrophilic polymer has a viscosity in the range of 1-120 cP, as set forth in claim 5 as filed and in paragraph [0040] of the published patent application.

The Examiner is reminded that upon allowance of a generic claim, applicants will be entitled to examination of all species encompassed by that claim, whether set forth in dependent claims or otherwise.

If the Examiner has any questions concerning this communication, or would like to discuss the application, the art, or other pertinent matters, she is welcome to contact the undersigned attorney at (650) 251-7710.

Respectfully submitted,

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